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FPM LET. 890-3

UNITED STATES CIVIL SERVICE COMMISSION

FEDERAL PERSONNEL MANUAL SYSTEM

LETTER

Washington 25, D. C.
August 1, 1961

FPM LETTER NO. 890-3

SUBJECT: FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM: RULINGS ON FAMILY COVERAGE

Heads of Departments and Independent Establishments:

The following is a compilation of rulings concerning family coverage for the guidance of agencies:

1. CARRIER AND EMPLOYING OFFICE RESPONSIBILITIES

It is the carrier's responsibility to determine whether a person is a member of a family in connection with claims, at the time that a claim is paid or service is rendered.

It is the responsibility of the employing office to make the determination in connection with enrollment, change in enrollment, withholdings, and Government contributions, and to determine whether there has been a change in family or marital status which would support an enrollment or change in enrollment.

2. IN GENERAL

In determining whether a person is a member of the family, it is that person's relationship to the employee that governs. For instance, the stepchild of the wife of a Federal employee is not the stepchild of the employee, even though the child lives in the employee's household.

Any occurrence which adds to, or subtracts from the number of members of the family is a change in family status. However, as explained later, certain other events which do not add to or subtract from the number of members of the family are also considered changes in family status for purposes of supporting enrollment or change in enrollment.

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3. CHANGE IN MARITAL STATUS

A change in marital status is any one of the following:

- Marriage
- Annulment
- Granting of final divorce decree
- Death of spouse

A change in marital status provides opportunity to enroll, or to change enrollment from self only to self and family or the reverse. It also may require change from one family enrollment code to another (female with non-dependent husband to regular family code, or the reverse). (Note: It is the responsibility of the employee to report changes in marital status affecting health benefits enrollment to the employing office.) When a female employee enrolled for self and family remarries, the husband is automatically covered by the family enrollment. If the husband is non-dependent, retroactive adjustment (if necessary) to the first day of the pay period in which the marriage occurred, will be made in withholdings and contributions regardless of how long after the event the employing office is informed of it. This retroactive adjustment is necessary since the excess Government contribution results in an underdeduction from (i.e. overpayment of) salary.* When a female employee reports a change in name due to marriage, employing offices should check its effect on her health benefits enrollment.

4. CHANGE IN FAMILY STATUS

A change in family status which provides opportunity to change enrollment from self only to self and family or the reverse is any one of the following:

- . Birth of a child
- . Legal adoption by an employee of a child under age 19
- . Legal adoption, by another, of an employee's child who was covered in the employee's family enrollment
- . Attainment of age 19 of child covered under family enrollment
- . Marriage of child covered under family enrollment
- . Death of a child covered under family enrollment

* The situation is different if the husband is himself a Government employee covered by his own health benefits enrollment. Normally in such a case, the most economical procedure would be for the husband to change to a family enrollment, if he does not already have one, and the wife cancel her enrollment.

- . Annulment of marriage of a child under age 19
- . Recovery of self-support of a child age 19 or older who has been covered as a dependent
- . Entry into, or discharge from, military service of a spouse, or of a child under age 19
- . Issuance or termination of an order of a court granting interlocutory divorce, limited divorce, legal separation, or separate maintenance

Other court actions which justify recognition of a change in family status include a declaration that a missing person is presumed dead and a court order specifically requiring an employee to enroll under the Federal Employees Health Benefits Program for his children or to provide health benefits protection for them. (The death of a missing person may be presumed only in accordance with State law.)

Loss of capacity for self-support of a husband who has been covered in a family enrollment, will require a change in the family enrollment code. It is the responsibility of the employee to report loss of capacity for self-support to the employing office and adjustments in withholdings and contributions will be made on a prospective basis.

Issuance or termination of an order of a court granting interlocutory divorce, limited divorce, legal separation, or separate maintenance, will not permit change from one family enrollment code to the other since the parties are still married, and by law the female employee still has a non-dependent husband.

The specific changes in family status mentioned above are not necessarily all inclusive; there may be other events which could warrant inclusion on the list and which may be added to the list from time to time.

5. EVENTS AFFECTING MARITAL OR FAMILY STATUS

Birth. An employee's child is a member of the family even though born after the death of the employee or after the divorce of his parents. Occasionally, there may be a question of legitimacy, in which case the law of the State of domicile controls the determination as to whether the illegitimate child is the "acknowledged natural child" of the employee so as to make the child a family member.

Death. The death of an employee does not affect the status of his widow or orphans as members of his family, except that under some State laws, the employee's stepchild ceases to be his stepchild when the employee dies.

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Marriage. Where a ceremonial marriage is involved, there is ordinarily no question as to the status of the spouse. Although the employee may register to change his enrollment as much as 31 days before marriage, and the change of enrollment may become effective as much as 16 days before the marriage, the bride (groom) does not become a member of the family until the marriage takes place, and is not covered for health benefits on the basis of the spouse's enrollment until the date the marriage actually takes place.

In cases of common-law marriage, where it is recognized by the laws of the State, there may be problems in determining whether a valid common-law marriage exists. Carriers and employing offices should follow applicable State law both in determining whether a common-law marriage exists, and in determining when the marriage was contracted.

Marriage of the employee's child or widow terminates the child's or widow's status as a member of his family.

Divorce. The spouse of the employee or annuitant ceases to be his spouse on the effective date of a decree of final divorce, sometimes referred to as a divorce a vinculo or a divorce from the bonds of matrimony. Other decrees do not affect the status of the couple as husband and wife but effect a change in family status. This kind of divorce may be described under State law as a divorce a mensa et thoro, a divorce from bed and board, an interlocutory divorce, a decree of separate maintenance, or a limited divorce.

Divorce of the parents does not affect the status of their children except that in some States, the employee's stepchild ceases to be his stepchild when the employee divorces the child's parent.

Annulment. Annulment of a marriage has the effect of restoring family member status to a person who lost such status because of marriage.

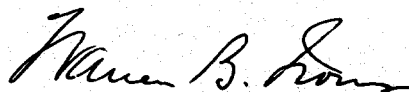
The restoration of family member status and restoration of coverage under a continuing family enrollment would date back in the case of a voidable marriage (that is, where the marriage was annulled for fraud or lack of consummation, for example) to the effective date of the annulment decree. (Where the marriage was void initially [ab initio] there is no break in the status of member of the family and coverage continues under a family enrollment without any break.)

Annulment of a voidable marriage is always evidenced by a court decree of annulment. The fact that a marriage is void may or may not be evidenced by a decree of annulment. Other evidences of annulment of a void marriage are: conviction of the spouse of bigamy because of the marriage in question, or a declaratory judgment.

While an annulment restores the status of family member to a surviving widow who has remarried and to a child under 19 who marries, a divorce will not do so. However, a child under age 19 who is married and divorced prior to his parent's enrollment in a health benefit plan is a member of the employee's family and will be covered by the employee's enrollment for self and family.

Adoption. To determine whether a child has been adopted, the carrier and the employing office must look to the form of the decree of adoption and to applicable State law. If the decree is final, there is no question. If the decree is interlocutory and State law provides that the rights of the child generally are the same as those of an adopted child, the child is adopted for health benefit purposes. If there is no decree of adoption, or if the decree merely awards the custody of the child to the adopting parents without establishing any family rights, then the child is not a member of the family, even though the adopting parents have legal custody, are financially responsible and expect to secure a decree of adoption, until a decree is finally secured. Foster children and wards are not members of the family unless and until adopted.

Incapacity of self-support. The recovery of capacity of self-support of a child who has reached age 19 terminates his status as a family member. Subsequent recurrence of incapacity does not restore his status as a family member unless the employing office determines that the incapacitating disability existed since before the child reached age 19. However, a brief restoration of earning power does not necessarily mean that the incapacity did not exist continuously. The determination should be based on known facts and medical evidence.



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